

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS I. ROGAN and BARBARA REID MACY

Appeal 2007-2879
Application 09/924,372
Technology Center 3600

Decided: November 16, 2007

Before MURRIEL E. CRAWFORD, LINDA E. HORNER, and DAVID B. WALKER, *Administrative Patent Judges*.

HORNER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-23, all the claims currently pending in the application. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM.

THE INVENTION

Appellants' claimed invention is directed to a method of electronically processing transactions and more specifically to a transaction identifier that links information regarding the various stages of the transaction (Spec. 1:¶ 1). Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A method of electronically handling transactions, comprising the steps of:
 - establishing a transaction identifier that is used during all stages of an order-to-cash trading cycle;
 - electronically storing the transaction identifier such that the identifier is remotely accessible by a plurality of users;
 - linking supplier information with the transaction identifier;
 - linking purchaser information with the transaction identifier;
 - updating status information indicating the status of the transaction during a corresponding phase of the transaction; and
 - linking the status information to the transaction identifier.

THE REJECTIONS

The Examiner relies upon the following evidence in the rejections:

Savino	US 6,015,167	Jan. 18, 2000
Sandhu	US 2002/0116241 A1	Aug. 22, 2002

Robert B. Johnston and Ruby Po Wan Lee, *The Role of Electronic Commerce Technologies in Just-In-Time Replenishment*, PROCEEDINGS OF THE THIRTIETH ANNUAL HAWAII INTERNATIONAL CONFERENCE ON SYSTEM SCIENCES, ISBN 0-8186-7862-3/97 (March 1997)

The following rejections are before us for review.

1. Claims 1-3, 6-15, and 17-23 stand rejected under 35 U.S.C.

§ 103(a) as unpatentable over Savino and Sandhu¹.

2. Claims 4, 5, and 16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Savino, Sandhu, and Johnston.

ISSUE

Appellants contend “[t]here is no *prima facie* case of obviousness because the proposed modification to the primary reference goes directly contrary to the explicit teachings of the specification of that reference” (Appeal Br. 1). The Examiner held that although Savino “does not explicitly disclose updating status information indicating the status of the transaction,” it would have been obvious “to combine and utilize Sandhu’s ERP system to coordinate shipping and receiving information by integrating, updating and tracking the status of various phases during a purchase order transaction to ensure accuracy and efficiency as per the objective of Savino” (Answer 3-4). The issue before us is whether updating status information during a corresponding phase of the transaction and linking the information to the transaction identifier is directly contrary to the teachings of Savino.

¹Although the Examiner’s Answer does not specifically state whether claims 18 and 19 have been rejected as unpatentable over the combination of Savino and Sandhu or the combination of Savino, Sandhu, and Johnston, we treat claims 18 and 19 as being rejected over Savino and Sandhu because claims 18 and 19 are commensurate in scope with claims 3 and 22, respectively.

FINDINGS OF FACT

We find that the following enumerated findings are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1.Savino is directed to coordinating shipping and receiving information between a customer and supplier, and more specifically to a method of coordinating shipping and receiving information which overcomes the drawbacks associated with a supplier re-entering purchase order information (Savino, col. 1, ll. 14-15, 21-24, and 52-56).

2.Savino discloses a method of employing a single bar code shipping label for coordinating shipping and receiving information between supplier and customer (Savino, col. 1, ll. 59-62).

3.The supplier digital processor 12, upon receiving an authorization command, assigns a bar code and generates a bar code shipping label (Savino, col. 4, ll. 17-20).

4.The bar code links in the database 14 or supplier digital processor 12 a plurality of predetermined relevant purchase and shipping information entered by the customer and associated with a purchase order (Savino, col. 4, ll. 20-23).

5.The bar code may be scanned by the supplier digital processor 12 or the customer digital processor 16 to access from the database 14 a plurality of predetermined relevant purchase and shipping information associated with the customer's purchase order including, for example, customer name and address,

packing slip number, purchase order number, box quantity number, part quantity number, customer part number, manufacturer part numbers, shipping date, etc. (Savino, col. 4, ll. 27-35).

6.Savino discloses that one advantage of the system is that purchase and shipping information is only entered by the customer in order to ensure reliability of order information. More specifically, there is no re-entry of purchase order information into the database of the supplier which can lead to corruption of the originally supplied purchase order information (Savino, col. 4, ll. 44-50).

7.Savino is silent regarding updating status information during subsequent phases of the transaction or linking the status information to the bar code.

PRINCIPLES OF LAW

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1734 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 127 S.Ct. at 1734 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized

to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 17-18.

Whether a reference teaches away from a claimed invention is a question of fact. *In re Harris*, 409 F.3d 1339, 1341 (Fed. Cir. 2005).

“A reference may be said to teach away when a person of ordinary skill, upon reading the reference would be led in a direction divergent from the path that was taken by the applicant.” *In re Haruna*, 249 F.3d 1327, 1335 (Fed. Cir. 2001).

ANALYSIS

Appellants argue claims 1-23 as a group (Appeal Br. 14-16).² We select claim 1 as the representative claim and the remaining claims of the group, i.e., claims 2-23, stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

Appellants contend that “the Examiner proposes to modify the *Savino* reference in a way that is directly contrary to the teachings of the *Savino* reference” (Appeal Br. 14). More specifically, Appellants contend the Examiner’s proposed modification (i.e., updating status information and linking it to the single bar code) is directly contrary to the teachings of *Savino* because “there is no updating of any status information...after the customer enters the information that results in generation of the barcode” (Appeal Br. 15).

² Although Appellants’ Brief did not specifically enumerate claims 18 and 19 in the Grounds of Rejection to be Reviewed on Appeal or in its Argument, because the Examiner’s rejection of these claims was not clearly presented in the Answer, rather than treating claims 18 and 19 as uncontested and dismissing the appeal as to these claims, we will treat them as argued with the remaining claims as a group.

Although we agree that Savino discloses that the purchase order information is input by the customer (Finding of Fact 6) and does not discuss updating status information regarding subsequent phases of the transaction or linking the status information to the bar code (Finding of Fact 7), we disagree with Appellants' contention that Savino's disclosure teaches *only* information input by the customer is linked to the bar code. Furthermore, we disagree with Appellants' contention that "the *Savino* reference is very protective of what information gets linked to the barcode of that reference" (Appeal Br. 16).

Savino is directed to coordinating shipping and receiving information between a customer and supplier, and more specifically to a method of coordinating shipping and receiving information which overcomes the drawbacks associated with a supplier re-entering purchase order information (Finding of Fact 1). Savino overcomes this drawback by employing a single bar code shipping label for coordinating shipping and receiving information between suppliers and customers (Finding of Fact 2). According to Savino, the supplier, upon receiving purchase order information and an authorization command, assigns a bar code and generates a bar code shipping label (Finding of Fact 3). The bar code links in the database 14 or supplier digital processor 12 a plurality of predetermined relevant purchase and shipping information entered by the customer and associated with a purchase order (Finding of Fact 4). The bar code may be scanned by the supplier or the customer to access a plurality of predetermined relevant purchase and shipping information associated with the customer's purchase order including, for example, customer name and address, packing slip number, purchase order

number, box quantity number, part quantity number, customer part number, manufacturer part numbers, shipping date, etc (Finding of Fact 5). Savino further discloses that one advantage of the system is that purchase and shipping information is only entered by the customer in order to ensure reliability of order information. More specifically, there is no re-entry of purchase order information into the database of the supplier which can lead to corruption of the originally supplied purchase order information (Finding of Fact 6).

Appellants contend that because Savino discloses that there is no re-entry of purchase order information into the database of the supplier that only customer-inputted information is linked to the barcode. However, this is contrary to the disclosure of Savino which teaches that part of the information linked to the barcode is the shipping date (Finding of Fact 4 and Fig. 5 of Savino). Shipping date is generally not provided in the purchase order information supplied by the customer. Furthermore, nowhere in Savino is there any disclosure that linking status information is prohibited and nowhere does Savino discourage a supplier from subsequently linking status information to the bar code. Therefore, we do not find that Savino teaches away from linking status or other information provided by the supplier or some other third party. As such, we find Appellants' argument unpersuasive.

CONCLUSIONS OF LAW

We conclude that Appellants have not shown that the Examiner erred in rejecting claims 1-3, 6-15, and 17-23 as unpatentable over Savino and Sandhu, and claims 4, 5, and 16 as unpatentable over Savino, Sandhu, and Johnston.

DECISION

The Examiner's decision to reject claims 1-3, 6-15, and 17-23 under 35 U.S.C. § 103(a) as unpatentable over Savino and Sandhu and claims 4, 5, and 16 as unpatentable over Savino, Sandhu, and Johnston is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

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